

# PUBLIC REVIEW DRAFT

## December 2009 Public Review Drafts – Summary of Revisions

Changes have been made to the Staff Report and proposed Basin Plan Amendments based on review of public comments received following the release of the June 2009 draft TMDL and implementation plan. Revisions are shown in ~~strikeout~~ and underline *except* for Chapters 6 and 9 and Appendices 1, 6, and 7 of the Staff Report and the Basin Plan Amendment *Klamath River TMDL Action Plan and Lost River Implementation Plan*. The revisions to these sections could not be highlighted in a readable format and are therefore presented as clean, rewritten text. The revisions included in the December 2009 Public Review Drafts are summarized below.

A number of revisions were made to the models, and all of the model scenarios for TMDL development were re-run. All revisions are documented in Staff Report Appendix 6 *Model Configuration and Results – Klamath River Model for TMDL Development* and in a new Appendix 7 *Modeling Scenarios – Klamath River Model for TMDL Development*. Appendix 7 also describes each of the modeling scenarios applied for TMDL development, details how each of these scenarios was configured, describes associated assumptions, and presents the results of each scenario.

The primary revisions to the Klamath River TMDL models include:

- Removal of the 20% reduction to short-wave solar radiation for Lake Ewauna;
- Update of the Keno reef datum;
- Update of the representation of organic matter and algae from Upper Klamath Lake for the natural conditions baseline and Oregon and California allocation scenarios;
- Reconciliation of inconsistencies among kinetic parameters for all models and scenarios;
- Enhanced documentation and description of decisions related to model set up; and
- Additional model performance charts and error statistics.

The revisions to the models resulted in modifications to some of the TMDL allocations, and/or targets, which are reflected in Chapter 5 of the Staff Report. Other revisions to the technical TMDL were made, including adding text in regards to:

- Nutrient-related targets;
- Nutrient dynamics in the Klamath River systems;
- Consolidated nutrient allocations to PacifiCorp's KHP facilities;
- Nutrient dynamics in the Lost River system, and effects on Klamath River nutrient conditions;
- Water quality and fish disease;
- Updated Scott river temperature natural boundary conditions; and
- Discussion of temperature impacts.

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Finally, the Site Specific Objectives for dissolved oxygen for the mainstem Klamath River in California (Staff Report Appendix 1) have been revised and expanded.

The geographic scope of the technical TMDL has been clarified. Load allocations and targets are assigned to source categories on the mainstem Klamath, minor tributaries, and the mouths of major tributaries. This does not include the Butte Valley Hydrologic Area.

Staff received comments regarding implementation measures for agriculture, including the development of a basinwide conditional waiver as proposed in the previous draft. While the recommendation to develop an agricultural waiver remains in this draft, the interim requirements on agriculture have been removed, including the interim requirement to develop water quality and ranch management plans. Stakeholders requested the opportunity to develop regulatory measures for agriculture through a local stakeholder process. In response, Regional Water Board staff agree to focus staff resources on development of a locally supported program to address agriculture basinwide. The development of the waiver will proceed through a public stakeholder process and be considered for adoption by 2012. In the meantime, the implementation plan includes interim recommendations for landowners to take in anticipation of the future agricultural water quality program. The Regional Water Board will consider whether to extend existing TMDL waivers in the Scott and Shasta with or without revisions or whether to incorporate them into the proposed agricultural waiver as part of the Scott and Shasta waiver renewal process.

In response to numerous public comments from individual landowners, particularly in the Scott and Shasta watersheds, staff have removed all additional interim requirements, including the proposed sediment prohibition, on individual landowners and operators in lieu of incorporating TMDL implementation into basin-wide and/or region-wide nonpoint source programs for efficiency and consistency. The revised Klamath River Implementation Plan also clarifies that it includes the implementation plan for the EPA-promulgated Lost River TMDL in California, because no such plan currently exists.

To protect against serious and significant individual threats to water quality, staff propose the adoption of a prohibition against unauthorized discharges of waste that violate water quality standards. This prohibition is a restatement of existing law and is not intended to provide a nonpoint source program that implements measures to control the cumulative impact of individual nonpoint source discharges of waste from agricultural activities. Individuals that may need permit coverage for their discharges should contact the Regional Water Board to help determine if an individual permit is appropriate. The implementation plan now provides Guidance on the Control of Excess Sediment that will help assist individuals addressing sediment sources in the Klamath River basin. The implementation plan proposes a Thermal Refugia Protection Policy that provides enhanced protection of thermal refugia in specific locations on the Klamath River, and clarifies the intent of the previously proposed prohibition in these areas.

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Other smaller changes have also been made, including additional discussion and direction for Klamath Hydroelectric Project implementation, the development of a conditional waiver for nonpoint source activities on USFS land, and the incorporation of the newly adopted Anadromous Salmonid Protection Rules in discussing riparian shade implementation requirements for timber activities.

By request of PacifiCorp, staff has added a programmatic environmental analysis of potential environmental impacts of dam removal. The previous June 2009 draft Klamath TMDL CEQA analysis did not include any analyses of dam removal impacts or permanent infrastructure modifications because the action was indeterminate. Several impacts related to dam decommissioning activities are identified, including aesthetics impacts, air quality impacts from blasting and heavy equipment use, and biological and water quality impacts from release of turbid water or other pollutants from dam decommissioning activities. As the decision on whether to decommission the dams has not been made and, therefore, the exact nature of the decommissioning activities has not yet been developed, Regional Water Board staff based the analysis in large part on available decommissioning studies conducted in the Klamath River watershed. It is not possible without further study to know whether the potentially significant adverse environmental effects can be fully mitigated to levels of insignificance. This environmental effects analysis of dam removal is not intended to be site-specific. A detailed environmental analysis of impacts and subsequent Regional Water Board approval is required before this activity may occur.